



# **EQUAL EMPLOYMENT MISSION**

**Shirlene Appleby**

**SOSRI-EO**

**DSN 793-2241**

**applebys@ria.army.mil**



# EEO Laws

- Equal Pay Act
- Title VII of the Civil Rights Act, 1964, amended 1972, 1991
- Age Discrimination Act, 1967
- Executive Order 11478, 1969
- Rehabilitation Act, 1973



## EEO Laws (continued)

- Civil Service Reform Act, 1978
- Americans With Disabilities Act, 1990
- 29 Code of Federal Regulations 1614, amended 1999



# Equal Employment Opportunity Mission

- Advise the Commander/Director
- Administrative complaints processing
- Special Emphasis Programs
- Affirmative Employment Program Plan
- EEO training



# Types of Discrimination

- DISPARATE IMPACT - practice or policy that applies to all individuals, but has an adverse impact upon certain individuals



# Types of Discrimination

- **HARASSMENT** - conduct or conditions which are offensive or create the effect of a hostile or intimidating work environment.



# Types of Discrimination

- DISPARATE TREATMENT - evidence that an individual has been treated differently, unequally, or unfairly on the bases of race, sex, national origin, handicap (physical or mental), color, religion, age or reprisal



# Types of Discrimination

- FAILURE TO ACCOMMODATE - applies to religion and disability. Organizations must make reasonable accommodation, unless doing so would create an undue hardship



# Complaints of Discrimination

- Any employee, former employee, or applicant for employment who believes that he/she has been discriminated against under Title VII, of the Civil Rights Act as amended, may file an individual complaint of discrimination



# Complaint Bases

- **Race**
- **Color**
- **Age (40+)**
- **National Origin**
- **Sex (includes sexual harassment)**
- **Handicap**
- **Religion**
- **Reprisal**



# Administrative Processing Steps

- Traditional counseling/ADR - REDS
- Office of Complaints Investigation
- EEOC hearing and/or DA review
- Final agency decision
- EEO Compliance and Complaints Review Agency (EOCCRA)
- U.S. District Court



# Counseling

- Contact EEO Office/counselor within 45 days of alleged discriminatory action
- Assign EEO counselor, conducts traditional counseling or offers alternate dispute resolution (REDS)
- No resolution - may file formal complaint within 15 calendar days of final interview



# Processing Steps

- EEO Officer accepts/dismisses formal complaint within 5 calendar days
- Age discrimination can file directly in U.S. District Court
- EEO Office requests investigator
- Investigation on-site
- Complainant/representative/Agency Labor Counselor



# Office of Complaints Investigation (OCI)

- Investigator authorized to:
  - Investigate all aspects of complaint
  - Assure employees cooperate
  - Witnesses testify under oath
  - Conduct inquiries
  - Request/review documents, policies and regulations
  - ROI issued providing appeal rights (hearing/final agency decision)



# EEOC Hearing

- Verbatim transcript (court reporter)
- Agency Labor Counselor
- Complainant/representative



# EEOC Hearing

- Administrative Judge is authorized to:
  - Administer oaths or affirmations
  - Preside over the hearing
  - Rule on offers of proof
  - Limit number of witnesses
  - Exclude any person due to behavior
  - Issue decisions



## U.S. District Court

- A complainant may file a civil action in district court after 180 calendar days, time frames do not apply to age discrimination



# Aggrieved Rights

- File an EEO complaint
- Anonymity (counseling stage only)
- Have a representative
- File discriminatory actions under Merit Systems Protection Board (MSPB)
- File age and/or Equal Pay Act discrimination in U.S. District Court



# Aggrieved Responsibilities

- File a formal complaint within 15 days
- Cooperate
- Provide information
- Consider resolution
- Election of redress
- Burden of proof



# Principal Agency Witness (PAW)

- Responsibilities
  - Cooperate
  - Provide information
  - Consider resolution



# Principal Agency Witness (PAW)

- Rights
  - Representation
  - Respond to allegations
  - Be informed of complaint status



# Resolution

- “Make whole” relief
- Not “make whole” relief (reasonable)
- Any point in complaint process
- REDS Program
  - **Informal process**
  - **Formal process**



# Avoid Becoming a PAW

- Be familiar with:
  - Merit Promotion Plan
  - Affirmative Employment Plan
  - Anti-discrimination laws
  - Agency policies and regulations



# Avoid Becoming a PAW

- Open lines of communication
- Base selections on merit (prepare selection statements)
- **THINK BEFORE you act!**
- Document and keep records
- Seek advice from appropriate sources



# Alternative Dispute Resolution (ADR)

Moving Conflict Resolution  
into the New Millennium



# Equal Employment Opportunity

The right of all applicants and employees to be protected from discrimination in employment regardless of race, color, religion, sex, national origin, age or mental or physical handicap



# What is ADR?

- A wide range of alternatives to the current traditional and protracted processes used in EEO
- Mediation



# Resolving Employment Disputes Swiftly (REDS)

AMC Model ADR Program



# REDS Parameters

- REDS used by all subordinate commands
- Locally administered by a trained team of ADR Specialists
- Voluntary employee participation
- Mandatory management participation



# REDS Team

- Members from
  - EEO (Team Leader)
  - CPAC
  - Legal



# The Mediation Alternative

- Mediation versus traditional process
  - First choice of process
  - Highest success rate
  - Accepted and understood
  - Trained mediators on-site



# REDS Process

- Mediation requested
  - REDS Team approves/disapproves
  - Employee responds within 3 days
  - Mediator appointed
  - Management participation mandatory



# Mediation Outcome

- Agreement reached
  - Settlement agreement developed
  - Staffed and necessary signatures
  - Employee and manager last to sign



# Mediation Outcome

- No agreement reached
  - Precomplaint processing ceases
  - Employee informed of right to file formal EEO complaint



# Sexual Harassment (POSH)



# DA Definition of Sexual Harassment

- Influencing, offering to influence, or threatening the career, pay, or job of another person, woman or man, in exchange for sexual favors



# DA Definition of Sexual Harassment

- Deliberate or repeated offensive comments, gestures, or physical contact of a sexual nature in a work or work-related environment



# Equal Employment Opportunity Commission (EEOC) Guidelines

- Actions constitute sexual harassment when:
  - Submission to such conduct becomes explicitly or implicitly a term or condition of employment



# Equal Employment Opportunity Commission (EEOC) Guidelines

- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual



# Equal Employment Opportunity Commission (EEOC) Guidelines

- Such conduct has the purpose or the effect of interfering with work performance or creates an intimidating, hostile, or offensive work environment



# Types of Sexual Harassment

- Quid Pro Quo
  - Demanding sexual favors in exchange for a promotion/raise
  - Disciplining or firing a subordinate who ends a romantic relationship



# Types of Sexual Harassment (continued)

- Quid Pro Quo
  - Changing job performance expectations after a subordinate refuses repeated requests for a date



# Types of Sexual Harassment (continued)

- Hostile Work Environment
  - **Verbal**
  - **Physical**
  - **Visual**



# Constitutes Sexual Harassment

If:

- Unwelcome
- Focuses on sex
- Interferes with terms of employment
- Causes hostile environment



# Characteristics of a Potential Harasser

- Misuse of power
- Dominance over victim
- Intimidation and control



# Management Actions When Sexual Harassment is Reported

- Listen actively and ask questions
- Acknowledge the employee's statements
- Put aside your personal biases
- Express no opinion



# Management Actions When Sexual Harassment is Reported (continued)

- Ask how the employee communicated that the behavior was unwelcome
- Ask how the behavior changed their working conditions
- Document everything



# Management Steps for Handling Complaint

- Monitor the workplace
- Manager's responsibility to protect complainant
- Be discreet
- Enlist organizational resources to assist you (EEO, CPAC, etc.)



# Management Steps for Handling Complaint (continued)

- Take swift decisive action
- Take disciplinary action if allegation is substantiated



# Remember Your Rights and Responsibilities

- You have the right to work in an environment that is free from sexual harassment!



**EEO OFFICE  
BUILDING 102, 2ND FLOOR  
EXT 22548**

**SEXUAL HARASSMENT  
HOTLINE - 20206**

**POSH MANAGER - 22241**